

TRUST-WIDE CLINICAL GUIDELINES DOCUMENT

GUIDELINES FOR REFERRAL TO REGULATORY BODIES (NON MEDICAL)

Policy Number:	HR-G3
Scope of this Document:	The Guidelines for Referral to Relevant Regulatory Bodies (Non Medical) applies to all employees that are regulated by the GPhC, HCPC or NMC
Recommending Committee:	Executive Committee
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Lead Author(s):	Deputy Director of Nursing

TRUST-WIDE CLINICAL POLICY DOCUMENT

2017 – Version 2

Quality, recovery and wellbeing at the heart of everything we do

TRUST-WIDE CLINICAL GUIDELINES DOCUMENT

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Further information about this document:

Document name	GUIDELINES FOR REFERRAL TO REGULATORY BODIES (NON MEDICAL) HR-G3
Document summary	These guidelines detail circumstances in which referral of non- medical professionals to regulatory bodies may be considered whilst offering assurance that there are processes in place to protect the public and support employees in the management of issues relating to professional conduct.
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To be read in conjunction with	HR01 Disciplinary procedures & impact assessment HR06 Freedom to Speak Up – Whistleblowing HR08 Verification of statutory registration of temporary and permanent staff HR11 Capability HR16 Disclosure and Barring Service Checks (CRB) HR25 Management of Alcohol and Substance Misuse by Staff HR27 Supporting Staff with mental or physical disabilities & Word Version of the Supportive Disability and Wellbeing Plan HR29 Occupational Health HR34 Personal Relationships at Work
This document can be made available in a range of alternative formats including various languages, large print and braille etc	
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Version Control:

		Version History:
Version 1	Approved	March 2015
Version 2	In draft to be ratified by the policy group and HR Policy Group	June 2017
Version 3		

SUPPORTING STATEMENTS

this document should be read in conjunction with the following statements:

SAFEGUARDING IS EVERYBODY'S BUSINESS

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and adults, including:

- being alert to the possibility of child / adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child / adult;
- knowing how to deal with a disclosure or allegation of child /adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child / adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

EQUALITY AND HUMAN RIGHTS

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

The trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line the with a Human Rights based approach and the FRED A principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

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1. PURPOSE AND RATIONALE

- 1.1 The guidelines will provide a framework for the process of referral to non-medical regulatory bodies in accordance with fitness to practice.
- 1.2 These guidelines should be read in conjunction with relevant regulatory body standards (see section 6 and appendix B).
- 1.3 Professional regulatory bodies in health and social care share a common purpose, that of public protection. This is facilitated by the governance of standards of education, training, conduct and performance.
- 1.4 The GPhC, (General Pharmaceutical Council), HCPC (Health & Care Professions Council) and NMC (Nursing and Midwifery Council) are the UK regulators for the below registered professionals and exist to safeguard the health and wellbeing of the public:-
 - Art Psychotherapists (HCPC)
 - Dieticians (HCPC)
 - Nurses (NMC)
 - Occupational Therapists (HCPC)
 - Physiotherapists (HCPC)
 - Pharmacists (GPhC)
 - Pharmacy Technicians (GPhC)
 - Psychologists (HCPC)
 - Social Workers in England (HCPC)
 - Speech & Language Therapists (HCPC)
- 1.5 These guidelines offer assurance that processes are in place to protect the public and support employees in the management of issues relating to professional conduct. This includes internal management processes and where necessary referral to external regulatory bodies.
- 1.6 Our internal processes will reflect the principles outlines in our Just and Learning Culture priority area.
- 1.7 **Note:** For the purpose of these guidelines, the term ‘employees’ also includes those employed by other organisations and working on behalf of the Trust.

2. OUTCOME FOCUSED AIMS AND OBJECTIVES

- 2.1 The Trust will ensure that employees are fully supported to achieve the required performance standards prior to referral to regulatory bodies. When concerns are raised about an individual's fitness to practice they will be treated fairly and equitably.
- 2.2 Everyday, regulatory bodies investigate professionals whose fitness to practice is impaired. They are the only bodies who have the power to stop individuals from practicing if they present a risk to the public.
- 2.3 In practice most matters will be through the Trust's internal processes. However in some circumstances it will be appropriate for the matter to be both dealt with by the Trust and referred to the regulatory body.

- 2.4 A referral to the regulator should not delay the length of time it may take to conclude any internal Trust processes; however there may be circumstances where this is unavoidable.

3. SCOPE

- 3.1 The Guidelines for Referral to Relevant Regulatory Bodies (Non Medical) applies to all employees that are regulated by the GPhC, HCPC or NMC.

4. DEFINITIONS

4.1

Term	Definition
GPhC	General Pharmaceutical Council
HCPC	Health & Care Professions Council
NMC	Nursing and Midwifery Council.

5. DUTIES

- 5.1 **Chief Executive**
The Chief Executive has delegated responsibility to the Executive Director of Nursing.
- 5.2 **Executive Director of Nursing**
The Executive Director of Nursing needs to be assured that there is a process in place to determine when a professional should be referred to a regulatory body for investigation.
- 5.3 **Deputy Director of Nursing**
The Deputy Director of Nursing will chair the monthly forum and provide quarterly reports to director of Nursing and Bi annual report to Operational Management Board.
- 5.4 **Human Resources**
Ensure that employment policies and procedures are legally compliant and providing necessary professional guidance and advice to enable the process.
- 5.5 **Senior Professional Leads**
The Senior Nurse Leadership Team, Professional Leads and HR Team will be responsible for the development, review, consultation, implementation, monitoring and approval of the guidelines.
- 5.6 **Employee Representation**
Employees (or those employed by other organisations and working with the Trust) may be accompanied by a workplace colleague or staff side representative to any meetings.
- 5.7 **Professional Leads**
Professional leads are responsible for making a referral to professional regulatory bodies for which they lead. They are also responsible for updating and attending the Professional regulation meetings on a regular basis for processing all Trust referrals to the relevant regulatory body and for providing feedback relevant to the HR team.

5.8 Managers

Managers are responsible for supporting employees to achieve the required performance standards. When concerns are raised about registered non medical employees fitness to practice they are treated fairly and equitably. Manager will work closely with the divisional and professional leads in managing referrals to regulatory bodies.

5.9 Employees

Employees have a responsibility to inform the Trust of any circumstances which may affect their fitness to practice.

5.10 Professional Regulation Meeting

The Meeting will take place on a monthly basis with divisional and professional leads to consider all potential and actual referrals to regulatory bodies. They will also provide quarterly reports to the Executive Director of Nursing and Chief Operating Officers (COO).

5.11 Registered Professionals

Names professional (see 1.3) are accountable for adhering to regulatory body standards (appendix B) and Trust policies as they relate to these guidelines.

6. PROCESS

6.1 The Deputy Director Nursing's office will be informed of all matters relating to the fitness to practice of employees listed in section 1.3 of these guidelines.

6.2 In practice most matters will be dealt with through the Trust's internal processes and will not warrant referral to the regulatory body.

6.3 All referrals to the regulators will be processed by the relevant professional leads in communication with the Director of Nursing's office and Professional Regulation meeting. The process for managing referrals is highlighted via the algorithm on page 13 (Appendix A).

6.4 The GPhC, HCPC and NMC are the only organisations (non-medical) with the powers to prevent registered professionals from practicing if they present a risk to patient safety. In very serious cases it will therefore be appropriate to refer an individual at an early stage, even before the Trust conducts an internal investigation.

6.5 A referral enables the regulator (where appropriate) to issue an interim suspension or restriction of practice until the case has been thoroughly investigated.

6.6 The below professional standards are the foundation of good practice and are a key to safeguarding the health and wellbeing of the public. If practitioners fall below these standards the Trust and or the regulatory body may need to consider their fitness to practice:

6.7 GPhC: Standards of Conduct, Ethics and Performance (2012)

These standards are applied to ALL persons regulated by the GPhC:

- a) Pharmacists
- b) Pharmacy Technicians

6.8 HCPC: Standards of Conduct Performance and Ethics (2016)

These standards are applied to ALL persons regulated by the HCPC however some professionals listed below will also have related proficiency standards and/or professional body codes:

- a) Art Psychotherapists: Standards of Proficiency: Arts Therapists (2013)
- b) Dieticians: Standards of Proficiency: Dieticians (2013)
- c) Occupational Therapists: Standards of Proficiency: Occupational Therapists (2013) & Code of Ethics and Professional Conduct (2015)
- d) Physiotherapists: Standards of Proficiency: Physiotherapists (2013)
- e) Psychologists: Standards of Proficiency: Practitioner Psychologists (2015)
- f) Social workers in England
- g) Speech & Language Therapists: Standards of Proficiency: Speech and Language Therapists (2013)
- h) Social workers: Standards of Proficiency: Social Work in England (2017)

6.9 NMC The Codes: Professional Standards of Practice and Behaviour for Nurses and Midwives (2015)

These standards are applied to ALL persons regulated by the NMC

- a) Nurses

6.10 Categories for Referral to Regulatory Bodies

There are four broad areas that may warrant referral to regulatory bodies:

- a) Misconduct
- b) Deficient Professional Performance (DPP)/Lack of Competence
- c) Serious Ill Health
- d) Criminal conviction or caution

6.11 Misconduct

6.12 Misconduct is behaviour which falls short of that which can be reasonably expected of a registered practitioner. All incidents will be looked at on an individual basis in line with our approach to A Just and Learning Culture.

6.13 Deficient Professional Performance (DPP) / Lack of competence

6.14 Lack of competence is a lack of knowledge, skill or judgment of such a nature that the practitioner is unfit to practice safely. They should demonstrate a commitment to keeping those skills up to date, and should deliver a service that is capable, safe, knowledgeable, understanding and completely focused on the needs of the people in their care.

6.15 Serious Ill Health

6.16 An employee must be capable of safe and effective practice without supervision. It does not mean the absence of any disability or health condition. Many disabled people and those with long-term health conditions are able to practice with or without adjustments to support their practice.

6.17 Regulators are particularly concerned about long-term, untreated or unacknowledged physical or mental health conditions that impair someone's ability to practice without supervision.

6.18 The Occupational Health Department will refer to the Director of Nursing's Office cases where they have concerns about the long-term, untreated or unacknowledged physical or mental health conditions that impair someone's ability to practice without supervision.

6.19 The Director of Nursing Office will refer this to the relevant professional lead for further exploration and consideration of need to refer to the professional regulatory body.

6.20 **Criminal Conviction or Caution**

6.21 Cases concerning criminal conviction or caution will be dealt with through the Trust's internal processes. However in some circumstances it will be appropriate for the matter to be both dealt with by the Trust and referred to the regulatory body.

7. **CONSULTATION**

7.1 The Following employee groups have been consulted in the development of the guidelines

- Senior Nurse Leadership Team
- Chief pharmacist
- Professional Lead: Allied health
- Professional Lead: Psychological Practice
- Strategic Lead: Social Care
- HR Policy Group

8. **TRAINING AND SUPPORT**

8.1 There are no specific training requirements related to these guidelines, standards outlined by the non-medical regulatory bodies will be followed. Multi-professional support in decision making is provided by the lead professionals in attendance at the trust Professional Regulation Meeting.

9. **MONITORING**

9.1 The guidelines will be reviewed by the Deputy Director in conjunction with the Professional Leads every two years.

9.2 Quarterly reports will be presented to the Director of Nursing and Bi annual reports will be presented to the operational management board and the processes referred to in these guidelines will be monitored via the Professional regulation monthly meeting.

10. EQUALITY AND HUMAN RIGHTS ANALYSIS

Equality and Human Rights Analysis

Title: Guidelines for Referral to Regulatory Bodies (Non Medical)

Area covered: Trust wide

What are the intended outcomes of this work? *Include outline of objectives and function aims*
 To ensure all non-medical registered practitioners and managers are aware of the process for referral to regulatory bodies.

Who will be affected? *e.g. staff, patients, service users etc*
 All non-medical registered practitioners employed by Mersey Care Trust.

Evidence

What evidence have you considered?
 NMC, GPhC & HCPC guidance.

Disability (including learning disability)
 N/A

Sex
 N/A

Race *Consider and detail (including the source of any evidence) on difference ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers.*
 N/A

Age *Consider and detail (including the source of any evidence) across age ranges on old and younger people. This can include safeguarding, consent and child welfare.*
 N/A

Gender reassignment (including transgender) *Consider and detail (including the source of any evidence) on transgender and transsexual people. This can include issues such as privacy of data and harassment.*
 N/A

Sexual orientation *Consider and detail (including the source of any evidence) on heterosexual people as well as lesbian, gay and bi-sexual people.*
 N/A

<p>Religion or belief Consider and detail (including the source of any evidence) on people with different religions, beliefs or no belief. N/A</p>
<p>Pregnancy and maternity Consider and detail (including the source of any evidence) on working arrangements, part-time working, infant caring responsibilities. N/A</p>
<p>Carers Consider and detail (including the source of any evidence) on part-time working, shift-patterns, general caring responsibilities. N/A</p>
<p>Other identified groups Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access. N/A</p>
<p>Cross Cutting implications to more than 1 protected characteristic N/A</p>

Human Rights	Is there an impact? How this right could be protected?
Right to life (Article 2)	<i>Not engaged</i>
Right of freedom from inhuman and degrading treatment (Article 3)	<i>Not engaged</i>
Right to liberty (Article 5)	Not engaged
Right to a fair trial (Article 6)	Not engaged
Right to private and family life (Article 8)	Not engaged
Right of freedom of religion or belief (Article 9)	Not engaged
Right to freedom of expression Note: this does not include insulting language such as racism (Article 10)	Not engaged

Right freedom from discrimination (Article 14)	Not engaged
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Engagement and Involvement <i>detail any engagement and involvement that was completed inputting this together.</i>
Senior Nurse Leadership Team
Chief pharmacist
Professional Lead: Allied health
Professional Lead: Psychological Practice
Strategic Lead: Social Care
HR Policy Group

Summary of Analysis <i>This highlights specific areas which indicate whether the whole of the document supports the trust to meet general duties of the Equality Act 2010</i>
Guidelines relevant to all non-medical registered practitioners employed by Mersey Care Trust.
Eliminate discrimination, harassment and victimisation
Advance equality of opportunity
Promote good relations between groups

What is the overall impact?

Addressing the impact on equalities
<i>There needs to be greater consideration re health inequalities and the impact of each individual development /change in relation to the protected characteristics and vulnerable groups</i>

Action planning for improvement
--

Detail in the action plan below the challenges and opportunities you have identified. *Include here any or all of the following, based on your assessment*

- *Plans already under way or in development to address the **challenges and priorities** identified.*
- *Arrangements for continued engagement of stakeholders.*
- *Arrangements for continued monitoring and evaluating the policy for its impact on different groups as the policy is implemented (or pilot activity progresses)*
- *Arrangements for embedding findings of the assessment within the wider system, OGDs, other agencies, local service providers and regulatory bodies*
- *Arrangements for publishing the assessment and ensuring relevant colleagues are informed of the results*
- *Arrangements for making information accessible to staff, patients, service users and the public*
- *Arrangements to make sure the assessment contributes to reviews of DH strategic equality objectives.*

For the record

Name of persons who carried out this assessment:
Helena McCourt
Kellie Anders

Date assessment completed:

Name of responsible Director:

Date assessment was signed:

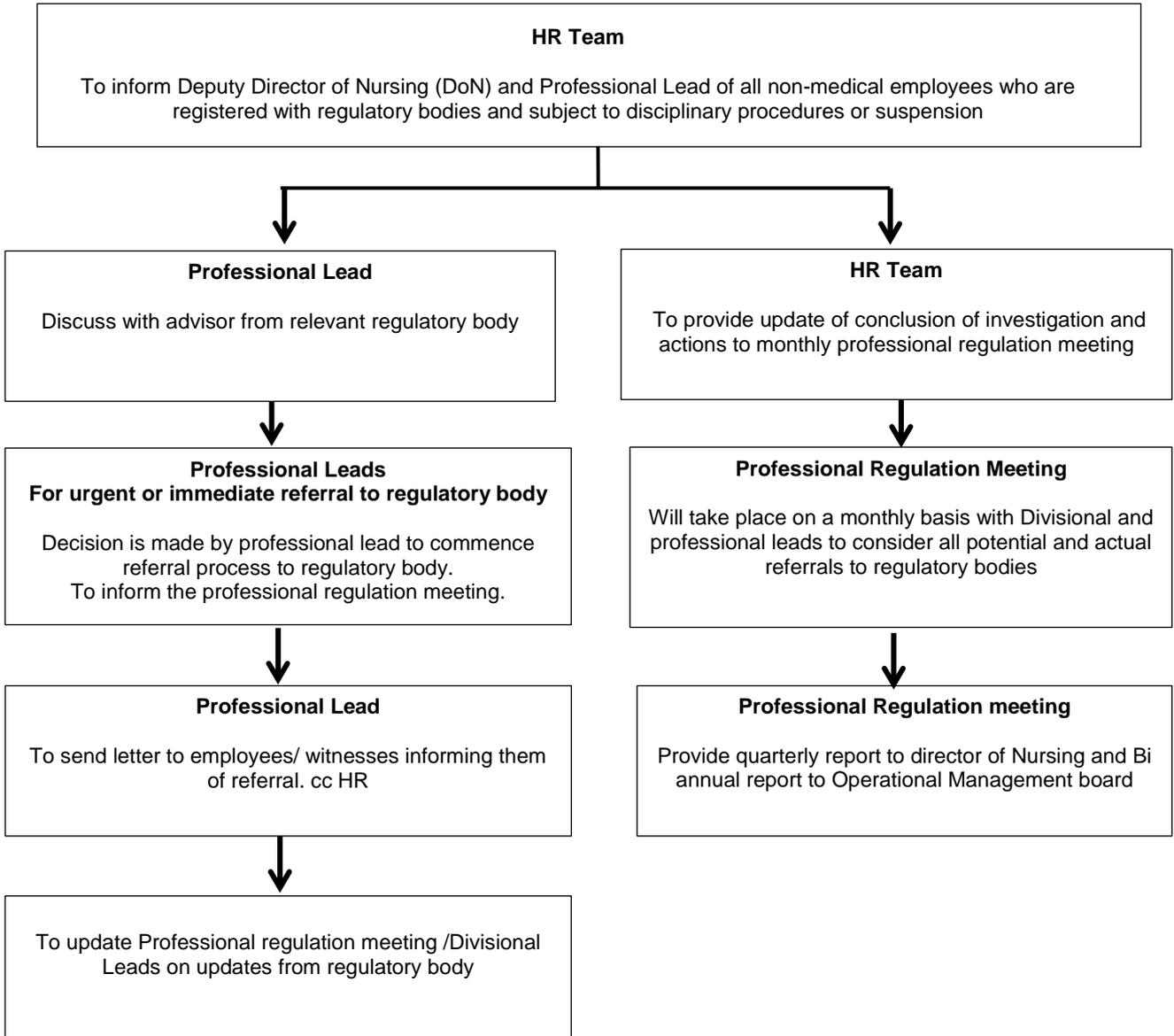
Action plan template

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your policy.

Category	Actions	Target date	Person responsible and their area of responsibility
Awareness Raising	Present guidelines to Senior Nurse Leadership Team/HR Policy group		Helena McCourt, Deputy Director of Nursing
Monitoring	<p>Monitored monthly by the regulatory body meeting</p> <p>Quarterly report to Director of Nursing</p> <p>Bi annual report to be presented to Operational management board and Strategic Workforce Group</p> <p>Review of guidelines every 2 years</p>		Helena McCourt, Deputy Director of Nursing

Appendix A

FLOWCHART FOR REFERRAL TO REGULATORY BODIES



Appendix B

LINKS TO PROFESSIONAL REGULATIONS AND STANDARDS

REGULATORY BODY	PROFESSION	LINK TITLE	URL
<p>NURSING & MIDWIFERY COUNCIL (NMC) https://www.nmc.org.uk/</p> <p>HOW TO RAISE A CONCERN: https://www.nmc.org.uk/concerns-nurses-midwives/concerns-complaints-and-referrals/</p>	Nurses	NMC The Code: Professional Standards of Practice and Behaviour for Nurses and Midwives (2015)	https://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/nmc-code.pdf
<p>HEALTH & CARE PROFESSIONS COUNCIL (HCPC) http://www.hcpc-uk.org/aboutregistration/theregister/</p> <p>HOW TO RAISE A CONCERN: http://www.hcpc-uk.org/complaints/raiseaconcern/</p>	All Professionals on HCPC Register HCPC Standards of Conduct Performance and Ethics (2016)		http://www.hcpc-uk.org/assets/documents/10004EDFStandardsofconduct.performanceandethics.pdf
	Social Workers	HCPC Standards of Proficiency: Social Work in England (2017)	http://www.hcpc-uk.org/assets/documents/10003B08Standardsofproficiency-SocialworkersinEngland.pdf
	Psychologists	HCPC Standards of Proficiency: Practitioner Psychologists (2015)	http://www.hcpc-uk.org/assets/documents/10002963SOP_Practitioner_psychologists.pdf
	Dieticians	HCPC Standards of Proficiency: Dietitians (2013)	http://www.hcpc-uk.org/assets/documents/1000050CStandards_of_Proficiency_Dietitians.pdf
		BDA Code of Professional Conduct (2016)	https://www.bda.uk.com/publications/professional/codeofprofessionalpractice2015
	Occupational Therapists	HCPC Code of Ethics and Professional Conduct (2015)	https://www.cot.co.uk/sites/default/files/publications/public/CODE-OF-ETHICS-2015.pdf
		HCPC Standards of Proficiency: Occupational Therapists (2013)	http://www.hcpc-uk.org/assets/documents/10000512Standards_of_Proficiency_Occupational_Therapists.pdf
	Physiotherapists	HCPC Standards of Proficiency: Physiotherapists (2013)	http://www.hcpc-uk.org/assets/documents/10000DBCStandards_of_Proficiency_Physiotherapists.pdf
	Arts Therapists	HCPC Standards of Proficiency: Arts Therapists (2013)	https://www.hcpc-uk.org/assets/documents/100004FBStandards_of_Proficiency_Arts_Therapists.pdf
		BAAT Code of Ethics and Principles of Professional Practice for Art Therapists (2014)	http://www.baat.org/Assets/Docs/General/BAAT%20CODE%20OF%20ETHICS%202014.pdf
Speech & Language Therapists	HCPC Standards of Proficiency: Speech and Language Therapists (2013)	http://www.hcpc-uk.org/assets/documents/10000529Standards_of_Proficiency_SLTs.pdf	
<p>GENERAL PHARMACEUTICAL COUNCIL (GPhC) http://www.pharmacyregulation.org/about-us</p> <p>HOW TO RAISE A CONCERN: https://www.pharmacyregulation.org/raising-concerns</p>	Pharmacists & Pharmacy Technicians	GPhC Standards of conduct, ethics and performance (2012)	https://www.pharmacyregulation.org/sites/default/files/standards_of_conduct_ethics_and_performance_july_2014.pdf

